

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-1379V

Filed: April 25, 2016

UNPUBLISHED

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BARBARA J. SMITH,

Petitioner,

V.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;  
Tetanus-Diphtheria-Acellular-Pertussis  
Vaccine ("TDaP"); Shoulder Injury  
Related to Vaccine Administration Unit  
("SIRVA"); Special Processing Unit  
("SPU")

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*Laurie C. TeWinkle, Law Offices of L.C. TeWinkle, LLC, Erie, PA, for petitioner.*

*Gordon Elliot Shemin, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On November 16, 2015, Barbara J. Smith ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the "Vaccine Act"). Petitioner alleges that she suffered a shoulder injury as a result of a tetanus-diphtheria-acellular pertussis ("TDaP") vaccine she received on October 10, 2014. Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 25, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent states that "petitioner's injury is consistent with shoulder injury related to vaccine administration (SIRVA), and that it was caused in fact by the TDaP vaccine administered on October 10, 2014." *Id.* at 2. Respondent further states that she "did not identify any other causes for petitioner's SIRVA, and evidence shows

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

that she has suffered the sequela of her injury for more than six months,” thus, “petitioner has satisfied all legal prerequisites for compensation under the Act.” *Id.* at 2-3.

**In view of respondent’s concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master